

06.09.2025

FDP No.32/2024

**Order on application filed under U/O.XXVI
rule 13 R/W. Section 151 of CPC.**

The petitioner has filed an application filed under order 26 Rule 13 of CPC for division of shares in property bearing No-110/3 measuring 6 acres 12 guntas as per judgment and decree in O.S No-329/2022 dated: 20.01.2024.

2. In the affidavit annexed to the application, it is stated that in the original suit for partition and separate possession, decree has been passed and now the share of the plaintiff/petitioner has to be allotted, hence the application has to be allowed in the interest of justice.

3. Per contra, the respondents have not filed any objection.

4. Perused the application.

5. Heard arguments of both sides.

6. The following point arises for my consideration.

- i) Whether the petitioner has made out sufficient grounds to allow application?
- ii) What order ?

7. My findings to the above points are as follows:

Point No.1 : In the Affirmative.

Point No.2 : As per final order
for the following :

REASONS

8. **Point No.1** : The petitioner herein is the plaintiff in O.S.No.329/2022 wherein she was held to be entitled to 1/4th share in the suit schedule property. Now the plaintiff who is present petitioner has filed this petition against the defendants/respondents and the present application is filed seeking appointment of Court commissioner for the purpose of allotment of share of plaintiff/petitioner as per the decree.

9. In view of the preliminary decree passed in O.S. No.329/2022 wherein it is held that the plaintiff/petitioner herein is entitled to 1/4th share in suit property i.e.,No.110/3 measuring 6 acres 12 guntas it is very much necessary appoint Court commissioner calling for suggestion with respect to the scheme of partition. Hence, I answer point No.1 in the Affirmative.

10. Point No.2:- In view of my findings on Point No.1, I proceed to pass the following:

ORDER

I.A.No.I filed by the petitioner U/O. XXVI Rule 13 R/w. Sec.151 of C.P.C. is hereby allowed.

The ADLR is appointed as a court commissioner.

Office is hereby directed to issue Commissioner warrant, if P.F is paid and the commissioner fee is fixed at Rs.2,000/- which to be borne by the petitioner.

**Civil Judge and J.M.F.C,
Sindagi.**